portion of one is taken. *Minnesota Valley R. Co.* v. *Doran*, 15 Minn. 230. In the present case, the test is not satisfied, since the plaintiff's right in the street is merely nominal, the public being virtually the owner. See *City of Schenectady* v. *Trustees of Union College*, 144 N. Y. 241, 249, 39 N. E. 67, 68. The decision, therefore, is clearly correct.

EQUITY — JURISDICTION — SECURITY FROM ADMINISTRATOR FOR PAYMENT OF UNMATURED DEBT OF DECEDENT. — The plaintiff's claim against the estate of the maker of notes, maturing more than three years after the maker's death, was disputed by his administrator. The only remedy provided by the Code was suit at law after the notes matured. The administrator demurred to the plaintiff's petition in equity to have sufficient assets set aside to meet the claim when due. *Held*, that the demurrer should be overruled. *Bankers' Surety Co.* v. *Meyer*, 131 N. Y. Supp. 57 (App. Div.).

Creditors' bills against an administrator constitute one of the oldest heads of equity jurisdiction. See POMEROY, EQUITY JURISPRUDENCE, 3 ed., §§ 348 *et seq.*, §§ 1151 *et seq.* To-day administration proceedings are carried on almost exclusively in the probate court. Statutes usually provide that a fund may be ordered to be set apart to meet unmatured or contingent claims. *Hoyt* v. *Bonnett*, 50 N. Y. 538. See *Cobb* v. *Kempton*, 154 Mass. 266, 268, 28 N. E. 264, 265. But generally equity still has at least supplementary jurisdiction. See *Chipman* v. *Montgomery*, 63 N. Y. 221, 235, 236. The principal case proceeds on the ground of a trust. But, though the executor holds the assets in a fiduciary relation to creditors and legatees, he is to be distinguished from a trustee. See AMES, CASES ON TRUSTS, 2 ed., 73, note 4. In a suit against an executor for a debt, the period of limitation is not that for enforcing trusts. *Scott* v. *Jones*, 4 Cl. & Fin. 382. A legacy is not a trust under a statute excepting trusts from the operation of a creditor's bill. *Bacon* v. *Bonham*, 27 N. J. Eq. 209. The creditor, however, should be able to secure the payment of his unmatured claim. *Johnson* v. *Mills*, 1 Ves. Sen. 282. See *Petrie* v. *Voorhees' Exr.*, 18 N. J. Eq. 285, 288. One whose legacy is payable in the future has a similar right. *Merritt* v. *Richardson*, 14 All. (Mass.) 239, 242. Likewise, a life-tenant of personalty may be required to give security for the protection of the remainderman. *Lyde* v. *Taylor*, 17 Ala. 270.

INSURANCE — NATURE AND INCIDENTS OF INSURANCE CONTRACTS — CONTRACT TO DEFEND PHYSICIAN AGAINST SUITS FOR MALPRACTICE. — The plaintiff company brought a bill to restrain the insurance commissioner from interfering with its business, which consisted in issuing a contract to physicians, whereby the company in consideration of an annual payment agreed to employ an attorney to defend the holder of the contract in all suits for civil malpractice that should be brought against him; but the company was not to pay the judgment if the suit were lost. *Held*, that the bill should be dismissed. *Physicians' Defense Co.* v. *Cooper*, 188 Fed. 832 (Circ. Ct., N. D. Cal.).

"Insurance is a contract by which the one party in consideration of a price paid adequate to the risk becomes security to the other that he shall not suffer loss, damage, or prejudice by the happening of the perils specified to certain things which may be exposed to them." See *Lucena* v. *Craufurd*, 2 B. & P. N. R. 269, 301; *Cummings* v. *Cheshire County M. F. Ins. Co.*, 55 N. H. 457, 458. It differs from a contract of warranty or for services by the fact that the consideration is paid simply for assuming the risk and is not proportional to the property or services expected in return. *Cole* v. *Haven*, 7 N. W. 383 (Ia.); *Commonwealth* v. *Provident Bicycle Association*, 178 Pa. St. 636, 36 Atl. 197. It differs from the ordinary contract of suretyship, because of its separate development historically; but modern corporations which make a business of acting as sureties for fixed premiums are recognized as insurance companies.